

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

LARRY W. PREWITT,SR.

NO.SA: 12-CV-582-DAE

**PLAINTIFF**

vs.

**DEFENDANT**

CONTINENTAL AUTOMITIVE

MOTION FOR NEW TRIAL

Now comes Larry W. Prewitt, SR. , Plaintiff pro se, and  
requests the Court to: Grant Plaintiff Motion For New Trial.

Date: 09/18/14

Signature: Larry W. Prewitt, Sr.

Address: 121 Jacks Lane  
New Braunfels, Texas 78130

Phone: 830-708-2621

1 of 4

Case 5:12-cv-00582-DAE Document 1 Filed 09/18/14 Page 1 of 4

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

LARRY W. PREWITT, SR.	vs	No. SA: 12-CV-562-DAB
Plaintiff		
vs		
CONTINENTAL AUTOMOTIVE		
Defendant		

MOTION FOR NEW TRIAL

Now comes, Larry W. Prewitt, Sr. , Plaintiff in the above styled and number case and asks the court to grant Plaintiff a new trial based on newly discovered evidence. Plaintiff is not an attorney and has no real knowledge of the law or legal training and would ask that the court allow him some flexibility in his presentation to the court. I ask the court to review the facts presented in the previous order(Dkt.#47) at (Id.at9) in this order the court found that plaintiff had raised a genuine issue of material fact as to whether he had received approval from his supervisor for one of the ten attendance events that led to his termination, so plaintiff is asking the court to review the attached email from plaintiff to John Taylor, dated July 20,2011, as evidence that he did approve plaintiff to leave and he states in his reply, that plaintiff had 9 hours of (pto time) so it was ok and without this ok plaintiff would not have clocked out and therefore that event should not be counted against plaintiff and plaintiff would have only had 9 events at the time of his termination on August 17, 2011.

Defendant states in their basics of facts, that no supervisor or manager has the authority to change or modify plaintiff's attendance record, then plaintiff would ask the court to review an email sent from plaintiff to William Garcia on 11-16-2010, were Mr Garcia states that he will correct plaintiff's time in the time system because plaintiff had an issue on that date and that email proves, that in fact a supervisor or manager can and do go into defendants time system and make changes.

Plaintiff has also included other emails that date back to previous years in which there were evidence of issues with defendant's time system and plaintiff would ask the court to consider these documents even though they may fall outside the required time line.

Case 5:12-cv-00582-DAE Document 1 Filed 09/18/14 Page 2 of 4

BACKGROUND

Because the facts leading to this motion have already been discussed at length in the court's previous order (Dkt. # 47) and (Dkt # 48) plaintiff asks the court to consider those previous orders along with plaintiff's newly discovered documents as proof of plaintiff's material facts to his claim, that plaintiff did receive approval from his supervisor for one of the ten attendance events that led to his termination and to the accuracy of Defendant's timekeeping system. (Id. At 17-19)

Plaintiff asks the court to consider an email from (Richard Trevino), who is an ex-employee of the Defendant as evidence that Defendant's timekeeping system is in fact flawed and that Mr Trevino, had to get his supervisor to make corrections in his attendance records, because of defendant's flawed timekeeping system and this with prove that plaintiff's allegations were true in fact.

DISCUSSION

Objections to Defendant's Summary Judgment Evidence

Plaintiff's first issue with Defendant's evidence is that Defendant did not meet their burden of showing that there were no genuine issues of material fact, to wit by conclusively establishing by competent summary judgment evidence that a legitimate non-discriminatory reason for Plaintiff's termination.

Plaintiff's responses to Defendant's motion for summary judgment evidence identifies and raises genuine issues of material fact to wit Defendant offered reason was a mere pretext for discrimination and retaliation.

Plaintiff has newly discovered evidence that raises a genuine issue of material fact as to whether the supposedly uniform and non-discriminatory Attendance Policy was discriminatory applied to Plaintiff and/or a pretext for retaliation or discrimination.

3 of 4

Case 5:12-cv-00582-DAE Document 1 Filed 09/18/14 Page 3 of 4

SUMMARY

Plaintiff, pleads with the court to consider this Motion for New Trial, with the knowledge and understanding, that it was prepared by Plaintiff, who is an ordinary person with no legal training or knowledge of the case law that governs this case, so therefore Plaintiff is unable to include any case law to support his claims. Plaintiff is limited by the above mentioned facts and the time limit to prepare this and then submit to the court for it's consideration.

Plaintiff also knows there are limits on the scope and time frame that Plaintiff can include in the presentation of his case, but Plaintiff would like to state to the court, that there are other facts that can not be stated, that would show that the Defendant through it's HR Dept. and Managers did create a hostile work environment for Plaintiff and they did this because of the complaints Plaintiff had made to (OSHA, and EEOC) and Plaintiff believes that the Defendant did this to force Plaintiff into a situation were he would either quit or be terminated and that is what happened to Plaintiff on August 17,2011.

Plaintiff would like to thank the court for it's consideration of these facts that Plaintiff has presented to the court in this Motion.

Signed this 18<sup>th</sup> day of September,2014

  
Larry W. Prewitt, Sr.  
Plaintiff

cc.

Santiago T. Alaniz

Case 5:12-cv-00582-DAE Document 1 Filed 09/18/14 Page 4 of 4

CONCLUSION

For the reasons discussed above , the Court GRANTS Plaintiff's Motion for New Trial.

IT IS SO ORDERED.

DATED:

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David Alan Ezra  
Senior United States District Judge

CERTIFICATE OF SERVICE

I, Larry W. Prewitt, SR. , Plaintiff pro se, do hereby certify that on the 18<sup>th</sup> Day of September, 2014, a true and correct copy of the foregoing pleading was forwarded to Santiago T. Alaniz , the attorney for ( Defendant ) by U.S. Mail at the following address : 300 Convent Street, Suite 1420, San Antonio,Tx. 78205

Dated: 09/18/14

Larry W. Prewitt, Sr.  
Signature of Plaintiff

September 16, 2014

To whom it may concern:

My name is Richard Trevino. I worked at Motorola / Continental AG from October 1992 to September 2006.

I can testify that the time system there at Continental was not always precise. There were times when I clocked in or out and it would not register an in or out punch. They had a internal website where you can check your weekly hours and your Paid Time Off. When I noticed that there was no in or out punch I would notify my immediate supervisor and he would correct my time himself. This happened through my entire employment with the company.

I would always monitor my hours and Paid Time Off because once in awhile the system would make a mistake and short me hours or PTO.

Sincerely,

Richard Trevino

**To: Larry Prewitt/dp/na/au/cag@CONTI07**  
**From: John01 Taylor/dp/na/au/cag**  
**Date: 07/20/2011 11:08AM**  
**Subject: Re: Fw: Chrysler Forever Training**

Ok, I believe you have 9 hrs.

**John Taylor**  
**Quality Systems Manager**  
**Continental Automotive**  
**Seguin Texas**  
**1-830-372-7769**

**Larry Prewitt---07/20/2011 11:03:11 AM---John, I am not feeling well and I believe that I have pto-sick time, so I am going home, I will stop**

**From: Larry Prewitt/dp/na/au/cag**  
**To: John01 Taylor/dp/na/au/cag@CONTI07**  
**Date: 07/20/2011 11:03 AM**  
**Subject: Re: Fw: Chrysler Forever Training**

**John, I am not feeling well and I believe that I have pto-sick time, so I am going home, I will stop by your office to see you, if you are out please let me know, if I am ok.**

**If you to call me my cell# 830-237-6104**

**Thanks" Larry Prewitt**  
-----John01 Taylor/dp/na/au/cag wrote: -----

**To: Larry Prewitt/dp/na/au/cag@CONTI07**  
**From: John01 Taylor/dp/na/au/cag**  
**Date: 07/11/2011 02:18PM**  
**Subject: Re: Fw: Chrysler Forever Training**

**Yes and I would expect there would be a sign in sheet.**

**John Taylor**  
**Quality Systems Manager**  
**Continental Automotive**  
**Seguin Texas**  
**1-830-372-7769**

**Larry Prewitt---07/11/2011 02:08:56 PM---John, do you want me to go to this in the morning and will there be a sign in sheet? -----John01 Ta**

**From: Larry Prewitt/dp/na/au/cag**  
**To: John01 Taylor/dp/na/au/cag@CONTI07**  
**Date: 07/11/2011 02:08 PM**  
**Subject: Re: Fw: Chrysler Forever Training**

— Forwarded by Larry Prewitt/dp/ha/au/cag on 11/16/2010 09:37 AM —

From: William Garcia/dp/ha/au/cag  
To: Larry Prewitt/dp/ha/au/cag@cont102  
Date: 11/16/2010 09:06 AM  
Subject: Re: Clock

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Larry,

Thanks for letting me know.

Just clock out this afternoon.

Thanks,

Bill Garcia  
Supplier Quality / Product Engineer  
Continental Automotive Systems  
3740 N. Austin St.  
Seguin, TX 78155  
Office: 830-372-7245  
Cell: 830-743-3298  
william.garcia@continental-corporation.com

From: Larry Prewitt/dp/ha/au/cag  
To: William Garcia/dp/ha/au/cag@CONT102  
Date: 11/16/2010 07:31 AM  
Subject: Clock

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Bill, I just realized that, I didn't clock in this morning, there was so much confusion with the meeting and so many people, it just slipped my mind, I did check my heel straps, so that should indicate, that I was here on time.  
Let me know if I need to clock in now and if I clock out this afternoon?

Thanks; Larry

----- Forwarded by Larry Prewitt/dp/na/au/cag on 07/20/2008 04:36 PM -----

Larry  
Prewitt/dp/na/au/  
cag To  
07/12/2007 06:11 Ryan Mahar/dp/na/au/cag@CONTI02  
AM Laura Link/dp/na/au/cag@CONTI02,  
Annie Offer/dp/na/au/cag@CONTI02,  
Horace Long/dp/na/au/cag@CONTI02  
Subject  
E-TIME SYSTEM

(Embedded  
image moved (Embedded image moved to file: pic08313.jpg)  
to file:  
pic13186.jpg)

Ryan, I clocked in today at 5:50 am and once again the system shows me as being absent, will you fix this issue, so I am not shown as being absent?

AT&amp;T Mail News Sports Finance Weather Entertainment Health Screen U-verse att.com More En Español

Home  larry Pay Appeal Fw: eTIME system  Compose   Delete  Move  Spam  More  

Inbox

Drafts

Sent

Spam

Trash

&gt; Folders

Fw: eTIME system

Larry.Prewitt@us.contiastomotive.com  
To Me

Nov 24, 2007

----- Forwarded by Larry Prewitt/dp/na/au/cag on 11/24/2007 07:45 AM -----

Larry  
Prewitt/dp/na/au/  
cag To  
Noe Gomez/dp/na/au/cag@CONT02  
11/24/2007 06:42 cc  
AM Ryan Mahar/dp/na/au/cag@CONT02  
Melanie  
French/dp/na/au/cag@CONT02, Laura  
Link/dp/na/au/cag@CONT02  
Subject  
eTIME system

I am not sure who is my supervisor , since I have been moved from the DTL area, and the eTIME system shows me as being absent for Nov. 23, 07 and that was a holiday.

I hope someone can adjust this in the system, so I am not counted as being absent?

I would also like to know who my current supervisor is and I need my qs9000 work instructions active for the area I am assigned to , so I can stay current and not receive any write ups?

Thanks

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